

### **REMARKS/ARGUMENTS**

The Final office action of November 17, 2005 has been carefully reviewed and these remarks are responsive thereto. Claims 12, 22-25, and 27-29 have been amended. New claims 34-42 have been added. No new matter is added. Support for the claim amendments and new claims can be found throughout the specification, for example, at page 2, lines 4-6; page 6, lines 7-10 and lines 13-17; page 7, lines 25-28; and/or page 8, lines 7-10.

Reconsideration and allowance of the instant application are respectfully requested. Claims 12-42 are pending in this application.

Claims 30-33 were rejected under 35 U.S.C. 112, first paragraph for allegedly failing to comply with the written description requirement. This rejection is respectfully traversed.

The Office Action asserts that the specification supposedly “fails to support that the trigger is provided without an identification of the trigger” but admits that the specification discloses “that the unique trigger ID is omitted from the trigger.” See Office Action, page 3. The Office Action bases this conclusion on the further assertion that “claim(s) 30-33 are not practical.” See Office Action, page 3.

It is noted that the test for satisfaction of the written description requirement is whether the patent specification describes the claimed invention in sufficient detail that one skill in the art can reasonably conclude that the inventor had possession of the claimed invention. See, e.g., *Moba, B.V. v. Diamond Automation, Inc.*, 325 F.3d 1306, 1319, 66 USPQ2d 1429, 1438 (Fed. Cir. 2003). In the present case, the Office Action admits that the instant specification discloses “that the unique trigger ID is omitted from the trigger.” See Office Action, page 3 and specification, paragraph [0031]. This disclosure is also recited in claims 30-33. Therefore, the specification describes the claimed invention with sufficient detail that one skill in the art can reasonably conclude that the inventor had possession of the claimed invention. It is therefore respectfully submitted that the rejection should be withdrawn.

Claims 12, 14, 15, 17, 18, 22-25 and 27-29 were rejected under 35 U.S.C. 102(b) as being anticipated by Massetti (U.S. Patent No. 5,850,249). This rejection is respectfully traversed.

Claims 12, 24, and 25 as amended, recite permitting an operator or advertiser to use the method, and giving a user an incitement to allow the use of the method. Claims 22, 23, 27, and

28, as amended, recite an operator or advertiser is permitted to use the transmitted information and a user is given an incitement to allow the use of the transmitted information. Claim 29, as amended, recites permitting an operator or advertiser to use the transmitted channel identifier and time stamp, and giving a user an incitement to allow the use of the channel identifier and time stamp. Massetti fails to teach or suggest these features.

“A claim is anticipated only if each and every element is set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). In the present case, Massetti fails to set forth each and every element in claims 12, 22, 22-25, and 27-29. Therefore, it is respectfully submitted the rejection should be withdrawn.

Claim 16 was rejected under 35 U.S.C. 103(a) as being unpatentable over Massetti in view of Block (U.S. Patent No. 4,528,589). This rejection is respectfully traversed.

Claim 16 depends from claim 12. As set forth above, Massetti fails to teach or suggest claim 12. Block also fails to teach or suggest claim 12. Nor does the Office Action assert that Block does teach or suggest claim 12. Because Massetti and Block, either alone or in combination, fail to teach or suggest claims 12 or 16, it is respectfully submitted the rejection should be withdrawn.

Claim 26 was rejected under 35 U.S.C. 103(a) as being unpatentable over Massetti in view of Cheung (U.S. Patent No. 4,258,386). This rejection is respectfully traversed.

Claim 26 depends from claim 25. As set forth above, Massetti fails to teach or suggest claim 25. Cheung also fails to teach or suggest claim 25. Nor does the Office Action assert that Cheung does teach or suggest claim 25. Because Massetti and Cheung, either alone or in combination, fail to teach or suggest claims 25 or 26, it is respectfully submitted the rejection should be withdrawn.

Claims 13, 19-21, and 30-33 were rejected under 35 U.S.C. 103(a) as being unpatentable over Massetti in view of Aras (U.S. Patent No. 5,872,588). This rejection is respectfully traversed.

Claims 13, 19-21, and 30 depend from claim 12. Claim 31 depends from claim 27. Claim 32 depends from claim 28. Claim 33 depends from claim 29. As set forth above, Massetti fails to

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teach or suggest claim 12, 27, 28, or 29. Aras also fails to teach or suggest claim 12, 27, 28, or 29. Nor does the Office Action assert that Aras does teach or suggest claim 12, 27, 28, or 29. Because Massetti and Aras, either alone or in combination, fail to teach or suggest the claims, it is respectfully submitted the rejection should be withdrawn.

New claims 34-42 depend from allowable independent claims and are believed to be allowable over the cited references.

### **CONCLUSION**

If any fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733, accordingly.


All rejections having been addressed, applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same.

Respectfully submitted,

BANNER & WITCOFF, LTD.

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By:

  
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